IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY AND ORIGINAL JURISDICTION

NOTICE OF MOTION NO.2384 OF 2004
IN
SUIT NO.21 OF 1985
IN
PETITION NO.296 OF 1985

Rui F.Rodrigues .. Plaintiff

Vs.

Xavier Hillary Almeida Anr. .. Defenants

And

The Court Receiver,
High Court, Bombay .. Respondent

Mr.R.S.Tripathi for the plaintiff

Mr.A.B.Verma i/b M/s.Mayur Narendra Co. for the respondent no.1

Mr.N.Engineer i/b Negandhi Shah and Himayatullah for respondent no.2.

CORAM : S.U.KAMDAR, J

DATED : 22ND JULY 2005

P.C.:

1. By the present notice of motion plaintiff is seeking that he should be appointed as agent of receiver in respect of flat no.5, Louisa House, I.C.Colony, Borivali, Mumbai 400 103.

2. The Court Receiver High Court Bombay has been appointed as Receiver in respect of the said premises. By an order dt.6.4.93 the mother of the plaintiffs was appointed as agent of the Receiver. On her death the present plaintiff has come on record as the legal heir of the said deceased plaintiff. Admittedly, the mother has expired and the plaintiff is the son. Plaintiff is seeking to be appointed as agent of the receiver on the same terms and conditions as the plaintiff's mother was appointed as an agent of the receiver. This relief is sought for in terms of prayer clause (a). The same is granted subject to following modification.

3. Firstly, Court Receiver will not put the plaintiff in possession as an agent of the receiver till and until the plaintiff makes payment of all arrears pertaining to royalty charges payable by the deceased mother in respect of the said premises for a period when she was the agent. The plaintiffs shall also make payment of all society outgoings if any, are in arrears. After clearing the entire dues upto the date the plaintiff will be

put in possession as agent of the receiver. It is further clarified that terms and conditions will be identical but in so far as royalty is concerned, court receiver will be free to refix a fresh royalty on the basis of the prensent market value of the said property. Motion disposed of accordingly. However, there shall be no order as to costs.